

REMARKS

Allowable Subject Matter

At the outset Applicant wishes to thank the Examiner for indicating that all of the claims are allowable over the prior art. Specifically, the Examiner indicated that:

Claims 1-25 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, first and 2nd paragraph, and 35 U.S.C. 101 set forth in this Office action.

Applicant notes that there has not been any rejection of claim 1-25 under 35 U.S.C. 112, first paragraph. Nonetheless, in view of the amendment to claims 1, 14 and 22, these claims are now allowable “.

Applicant has amended claims 1, 14 and 22 to over the rejections as set forth below.

Applicant notes however that claims 1-25 were not rejected under 35 U.S.C. 112, first paragraph. However, in view of the amendments as discussed below, Applicant believes that the claims are also proper under 35 U.S.C. 112, first paragraph.

35 U.S.C. §112

The Examiner furnished the following rejections:

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph. The Examiner argued that: “

Specifically, nowhere do the independent claims actually arrive at the point of determining the promised (in the preamble) opening price. Thus, the claims do not properly set forth the metes and bounds of the instant invention.”

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, “as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are the actual arrival at an opening promise as promised in the preamble of the claims. Thus, the claims do not properly set forth the metes and bounds of the instant invention.”

Claims 1-25 rejected under 35 U.S.C. 112, second paragraph, as being incomplete “for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The Examiner also argued that: “The omitted steps are: the actual arrival at an opening promise as promised in the preamble of the claims. Thus, the claims do not properly set forth the metes and bounds of the instant invention.”

While Applicant disagrees that these claims as previously presented were improper under 35 U.S.C. 112, second paragraph, nonetheless in order to advance prosecution, applicant has amended these claims to overcome the rejections.

Applicant has amended claim 1 to call for: "disseminating opening bid and offer prices as the prices of the interest that remain at the top of the bid and offer sides traded in the trading system." Applicant has made similar amendments to claims 14 and 22. As amended, claims 1, 14 and 22 define the subject matter which Applicant considers as applicant's invention.. No new matter has been added. This feature is supported by Applicant's specification at page 18, lines 10-13. Additional support is found for this amendment in each of the examples on pages 19-21.

35 U.S.C. §101

The Examiner rejected Claims 1-25 under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility.

The Examiner stated: "Specifically, nowhere do the independent claims actually arrive at the point of determining the promised (in the preamble) opening price."

While Applicant again disagrees that these claims are somehow inoperative and thus lacking utility under 35 U.S.C. 101, nonetheless in order to advance prosecution, applicant has amended these claims to overcome the rejection.

The amendment to claim 1, as set forth above, and the similar amendments to claims 14 and 22, define operative embodiments that clearly have utility. No new matter has been added, as set out above.

It is believed that all the rejections and/or objections raised by the Examiner have been addressed.

In view of the foregoing, and the Examiner's indication of allowable subject matter, applicant respectfully submits that the application is in condition for allowance and such action is requested at the Examiner's earliest convenience.

All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Applicant : Daniel F. Moore et al.
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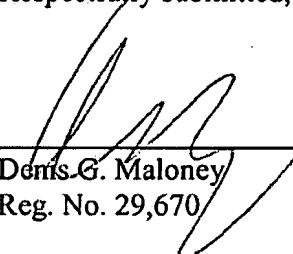
Attorney's Docket No.: 09857-071001

Any circumstance in which the applicant has (a) addressed certain comments of the Examiner does not mean that the applicant concedes other comments of the Examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the Examiner's positions with respect to that claim or other claims.

Please apply the \$450 Petition for Extension of Time fee to Deposit Account No. 06-1050, and please apply any other charges or credits to Deposit Account 06-1050.

Respectfully submitted,

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